IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

CRP.No. 1346 of 2003(H)

OP.170/2001 of DISTRICT COURT, PALAKKAD

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REVN. PETITIONER: PETITIONER

PREMALATHA D/O. LATE CHAMI MOOTHAN,
RESIDING AT KALARIKKAL HOUSE, KARNAKI NAGAR,
VADAKKANTHARA P.O., PALAKKAD.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.PRINCE.K.ELIAS
SRI.R.RAJA RAJA VARMA
SMT.M.R.VALSA

RESPONDENTS: RESPONDENTS

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1. THANKAMANI AMMAL, W/O.LATE CHAMI MOOTHAN
RESIDING AT PERUMBATH OUSE, KARIMPUZHA P.O.,
OTTAPALAM TALUK, PALAKKAD.

2. RAMAKRISHNAN, S/O. LATE CHAMI MOOTHAN,
RESIDING AT PERUMBATH HOUSE, KARIMPUZHA P.O.,
OTTAPALAM TALUK, PALAKKAD.

3. NARAYANANKUTTY, S/O. LATE CHAMI MOOTHAN
RESIDING AT PERUMBATH HOUSE, KARIMPUZHA P.O.,
OTTAPALAM TALUK, PALAKKAD.

4. KUNJIMALU AMMAL, D/O. MUSALI MOOTHAN,
RESIDING AT EDAKKATTIL, KARIMPUZHA AMSOM,
PALAKKAD.

5. MADHAVIKUTTY AMMA
D/O. LATE MEENAKSHI AMMA, RESIDING AT KORMATH,
PUTHAN VEETTIL, KARIMPUZHA P.O., OTTAPALAM TALUK,
PALAKKAD.

6. JALAJA D/O. MADHAVIKUTTY AMMA,
RESIDING AT KORMATH, PUTHAN VEETTIL,
KARIMPUZHA P.O., OTTAPALAM TALUK, PALAKKAD.

BY ADV. SRI.SANTHEEP ANKARATH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

C.R.P. No. 1346 OF 2003

Dated this the 1st day of June, 2007

ORDER

The plaintiff in OS No.84 of 2001 of the Sub Court, Ottappalam is the revision petitioner and the order impugned is the order of the District judge, Palakkad dismissing a petition under Section 24 seeking a transfer of the final decree proceedings pending in OS No.251 of 1986 on the files of the Munsiff's Court, Ottappalam for joint trial with the suit OS No.84 of 2001. The learned District Judge has taken the view that since the judgment and decree in OS No.251 of 1986 in respect of which decrees for declaration and cancellation are sought in the present suit had already attained finality, there is no scope for any joint trial.

2. Sri. V.Chitambaresh, learned counsel for the petitioner submits that the suit does not come to an end with the passage of preliminary decree. The Suit is only adjourned sine die and once the application for final decree is filed, the trial commences on the second stage. Learned counsel for the respondent submits that the learned District Judge cannot be faulted for having held that there is no scope for trial in proceedings for passage of final decree in the commonly understood meaning of that term.

3. Having guaged the impugned order by the parameters to be used when this Court invokes supervisory jurisdiction under Article 227 of the Constitution, I am not prepared to say that the impugned order is so wholly unreasonable as to warrant interference under the visitorial jurisdiction which is invoked only in exceptional circumstances. However, even as I confirm the impugned order, there will be a direction to the Sub Court, Ottappalam to expedite the trial of OS No.84 of 2001 and dispose of the same at that Court's earliest and at any rate within six months of receiving copy of this judgment. Considering the above direction there will be a direction to the Munsiff, Ottappalam who is presently in seizin of the final decree proceedings in Os No.251 of 1986, that even if a final decree is passed in that case the petitioners will not be evicted from the properties in their possession till such time as the suit OS No.24 of 2001 is disposed of by the Sub Court.

The Civil Revision Petition is disposed of as above. No costs.

PIUS C. KURIAKOSE, JUDGE

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